

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ANTHONY MACKAY, ARION ROBINSON,
AZIZ KHETANI, DOUG LaMARCA, JOHN
IRVINE, NICOLAS URQUIZA, PATRICK
ECKERT, and YE WANG, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

LENOVO (UNITED STATES) INC.,

Defendant.

C.A. No. 20-1149-RGA

**DECLARATION OF STEVEN L. CAPONI
IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS AMENDED COMPLAINT**

I, Steven L. Caponi, hereby declare as follows:

1. I am a partner with the law firm of K&L Gates LLP, counsel of record in this Action for Defendant Lenovo (United States) Inc. ("Lenovo" or "Defendant"). I am a member in good standing of the State bar of Delaware and am admitted to practice before this Court. I have personal knowledge of the facts set forth in this declaration and, if called to testify, I could and would testify competently thereto.

2. Attached hereto as **Exhibit A** is a true and correct copy of Lenovo's Limited Warranty that Plaintiffs Anthony Mackay's ("MacKay"), Arion Robinson's ("Robinson"), Aziz Khetani's ("Khetani"), Doug LaMarca's ("LaMarca"), John Irvine's ("Irvine"), Patrick Eckert's ("Eckert"), and Ye Wang's ("Wang") (collectively and with Plaintiff Nicolas Urquiza ("Urquiza"), "Plaintiffs") computers were subject to, and which is quoted in the First Amended Complaint ("FAC") at paragraph 54. This Exhibit was created on April 29, 2021 by accessing

https://download.lenovo.com/pccbbs/thinkcentre_pdf/1505-0010-02_en_update.pdf, which was identified in footnote 5 on page 16 of the FAC, and printing the webpage to PDF.

3. I caused to be created a redline showing the minor differences between the general and class allegations in the FAC and the Amended Class Action Complaint in the action entitled *Martin Gisairo v. Lenovo (United States) Inc.*, Case No. 19-cv-02727-WMW-LIB (Docket Entry (“DE”) 30), which is currently pending before the United States District Court for the District of Minnesota. Attached hereto as **Exhibit B** is a true and correct copy of this redline.

4. Attached hereto as **Exhibit C** is a true and correct copy of a Reddit printout regarding alleged glitches a Reddit user was experiencing with their Lenovo laptop, which was included in a link in footnote 20 in the FAC. This Exhibit was created on April 29, 2021 by accessing

https://www.reddit.com/r/techsupport/comments/6wes3h/brand_new_lenovo_flex_5_screen_glitch_hardware_or/, which was identified in footnote 20 on page 36 of the FAC, and printing the webpage to PDF.

5. Attached hereto as **Exhibit D** is a true and correct copy of the initial Class Action Complaint filed in the United States District Court for the District of Minnesota, entitled *Martin Gisairo v. Lenovo (United States) Inc.*, Case No. 19-cv-02727-WMW-LIB (Docket Entry (“DE”) 1).

6. Attached hereto as **Exhibit E** is a true and correct copy of the Amended Class Action Complaint filed in the United States District Court for the District of Minnesota, entitled *Martin Gisairo v. Lenovo (United States) Inc.*, Case No. 19-cv-02727-WMW-LIB (DE 30).

7. Attached hereto as **Exhibit F** is a true and correct copy of the docket for the matter of *Martin Gisairo v. Lenovo (United States) Inc.*, Case No. 19-cv-02727-WMW-LIB, which was printed on April 29, 2021.

8. Attached hereto as **Exhibit G** is a true and correct copy of the court's Order Granting in Part and Denying in Part Defendant's Motion to Dismiss entered on February 2, 2021, in the matter of *Martin Gisairo v. Lenovo (United States) Inc.*, Case No. 19-cv-02727-WMW-LIB (DE 45).

9. Attached hereto as **Exhibit H** is a true and correct copy of the court's Order Granting Motion to Dismiss entered on September 4, 2015, in the matter *Arthur Latimer v. Medtronic, Inc., et al.*, Case No. 2014CV245871, in the Superior Court of Fulton County, State of Georgia. This Exhibit was created on April 29, 2021 by accessing the Fulton County Superior Court's website located at: <https://publicrecordsaccess.fultoncountyga.gov/Portal/Home/WorkspaceMode?p=0>, and downloading the court's September 4, 2015 "FINAL ORDER" from the docket for Case No. 2014CV245871.

10. I caused to be created a redline showing the minor differences between the initial Complaint in this Action, and the Amended Class Action Complaint in the action entitled *Martin Gisairo v. Lenovo (United States) Inc.*, Case No. 19-cv-02727-WMW-LIB (Docket Entry ("DE") 30), which is currently pending before the United States District Court for the District of Minnesota. Attached hereto as **Exhibit I** is a true and correct copy of this redline.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: April 30, 2021

/s/ Steven L. Caponi

Steven L. Caponi (No. 3484)